THE NATIONAL ARCHIVES

FEDERAL REGISTER

OF THE UNITED STATES 1934

VOLUME 4 NUMBER 114

Washington, Wednesday, June 14, 1939

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

DETERMINATION OF THE SECRETARY OF AGRICULTURE APPROVED BY THE PRESIDENT OF THE UNITED STATES WITH RESPECT TO AN ORDER, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE DUBUQUE, IOWA, MARKETING AREA

Whereas, the Secretary of Agriculture, pursuant to the terms and provisions of Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, having reason to believe that execution of an amendment to a tentatively approved marketing agreement, as amended, and issuance of an order, as amended, both of which regulate the handling of milk in the Dubuque, Iowa, marketing area, would tend to effectuate the declared policy of the act, gave, on the 7th day of March 1939 notice of a public hearing to be held on the 13th day of March 1939 at Dubuque, Iowa, on proposed amendments of said tentatively approved marketing agreement, and of said order, and at said time and place conducted a public hearing at which all interested parties were afforded an opportunity to be heard on the said proposed amendments; and

Whereas, after said hearing and after the tentative approval by the Secretary, on the 19th day of May 1939 of a marketing agreement, as amended, handlers of more than 50 percent of the volume of milk covered by such proposed order, as amended, which is marketed within the Dubuque, Iowa, marketing area, refused or failed to sign such tentatively approved marketing agreement, as amended, relating to milk;

Now, therefore, the Secretary of Agriculture, pursuant to the authority vested in him by said act, hereby determines:

(1) That the refusal or failure of said handlers to sign said tentatively approved marketing agreement, as amended, tends to prevent the effectuation of the declared policy of the act;

(2) That the issuance of the proposed order, as amended, is the only practical means, pursuant to such policy, of advancing the interest of producers of milk which is produced for sale in said area; and

(3) That the issuance of the proposed order, as amended, is approved or favored by over two-thirds of the producers who participated in a referendum conducted by the Secretary, and who, during the month of January, 1939, said month having been determined by the Secretary to be a representative period, were engaged in the production of milk for sale in said area.

In witness whereof, H. A. Wallace, Secretary of Agriculture of the United States, has executed this determination in duplicate, and has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed hereto in the City of Washington, District of Columbia, this 8th day of June, 1939.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Approved:

FRANKLIN D ROOSEVELT
The President of the United States.

Dated: June 10, 1939.

[F. R. Doc. 39-2038; Filed, June 12, 1939; 4:33 p. m.]

[Order No. 12, as amended]

PART 912—MARKETING ORDERS

ORDER, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE DUBUQUE, IOWA, MARKETING AREA*

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*Section 912.0 to and including Sec. 912.11 issued under the authority contained in 48 Stat. 31 (1933), 7 U.S.C. § 601 et seq. (1934); 49 Stat. 750 (1935); 50 Stat. 246 (1937), 7 U.S.C. § 601 et seq. (Supp. IV 1938).

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Published by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. L. 500), under regulations prescribed by the Administrative Committee, with the approval of the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1 per month or $10 per year; single copies 10 cents each; payable in advance. Remit by money order payable to Superintendent of Documents, Government Printing Office, Washington, D. C.

Correspondence concerning the publication of the FEDERAL REGISTER should be addressed to the Director, Division of the Federal Register, The National Archives, Washington, D. C.

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Sec.

Whereas, H. A. Wallace, Secretary of Agriculture of the United States of America, pursuant to the provisions of Title I of Public Act No. 10, 73d Congress, as amended (48 Stat. 31), issued, on September 17, 1936, Order No. 12 [1] regulating the handling of milk in the Dubuque, Iowa, marketing area, said order being effective October 1, 1936; and

Whereas, said order was amended, effective March 1, 1937; [2] and

Whereas, the Secretary, on August 17, 1936, tentatively approved the marketing agreement regulating the handling of milk in the Dubuque, Iowa, marketing area, an amendment to which was tentatively approved on January 23, 1937; and

Whereas, the Secretary, having reason to believe that said tentatively approved marketing agreement, as amended, and said order, as amended, should be further amended, gave, on the 7th day of March 1939, notice of a hearing [3] to be held on the 13th day of March 1939, at Dubuque, Iowa, on certain proposed amended provisions of said tentatively approved marketing agreement, as amended, and of said order, as amended, and at said time and place conducted a public hearing at which all interested parties were afforded an opportunity to be heard on said proposed amended provisions; and

Whereas, after such hearing and after the tentative approval, on the 19th day of May 1939, by the Secretary, of a marketing agreement, as amended, handlers of more than 50 percent of the volume of milk covered by such order, as amended, which is marketed within the Dubuque, Iowa, marketing area, refused or failed to sign such tentatively approved marketing agreement, as amended, relating to milk; and

Whereas, the Secretary determined, on the 8th day of June 1939, said determination being approved by the President of the United States on the 10th day of June 1939, that said refusal or failure tends to prevent the effectuation of the declared policy of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246), and that this order, as amended, is the only practical means, pursuant to such policy, of advancing the interests of producers of milk in said area and is approved or favored by over 67 percent of the producers voting in a referendum, who, during the month of January 1939, said month having been determined by the Secretary to be a representative period, were engaged in the production of milk for sale in the Dubuque, Iowa, marketing area; and

Whereas, the Secretary finds, upon the evidence introduced at the last above-mentioned hearing, said findings being in addition to the findings made upon the evidence introduced at the hearings on said order and on said amendment and to the other findings made prior to or at the time of the original issuance of said order and of said amendment (which findings are hereby ratified and affirmed, save only as such findings are in conflict with the findings hereinafter set forth):

§ 912.0 *Findings.* 1. That the marketing area, as herein defined, confines the application of the order, as amended, to the pricing of milk in a contiguous territory in which operate substantially the same factors affecting the supply of and demand for milk;

2. That the classification of milk into four classes is a proper basis for the pricing of milk which is disposed of by handlers;

3. That the determination of uniform prices to producers and the payment of such prices, through a market-wide equalization pool, is, in view of present practices in the market, a fair and reasonable method of distributing to producers the proceeds of sales to handlers;

4. That the prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk, as determined pursuant to section 2 and section 8e of said act, are not reasonable in view of the price of feeds, the available supplies of feed, and other economic conditions which affect the supply of and demand for such milk, but that the minimum prices set forth in this order, as amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and that the fixing of such prices does not have for its purpose the maintenance of prices to producers above the levels which are declared in the act to be the policy of Congress to establish;

5. That the order, as amended, regulates the handling of milk in the same manner as, and is applicable only to handlers specified in, the tentatively approved marketing agreement, as amended, upon which hearings have been held; and

6. That the issuance of the order, as amended, and all of its terms and conditions will tend to effectuate the declared policy of the act.

Now, therefore, the Secretary of Agriculture, pursuant to the powers conferred upon him by the terms and provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, hereby orders that such handling of milk in the Dubuque, Iowa, marketing area, as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce, shall, from the effective date hereof, be in compliance with the following terms and conditions:

§ 912.1 *Definitions*—(a) *Terms.* The following terms shall have the following meanings:

(1) The term "Dubuque, Iowa, marketing area," hereinafter called the "marketing area," means the territory within the corporate limits of the city of Dubuque, Iowa, territory within the township of Dubuque, Iowa, sections 1, 2, 3, 11, and 12 of the township of Table Mound, and sections 5 and 6 of the township of Mosalem, all in the county of Dubuque in the State of Iowa and the territory within the corporate limits of the city of East Dubuque in the county of Jo Daviess, in the State of Illinois.

(2) The term "person" means any individual, partnership, corporation, association, or any other business unit.

(3) The term "producer" means any person, irrespective of whether any such person is also a handler, who produces milk which is received at the plant of a handler from which milk is disposed of in the marketing area or which is caused to be delivered by a handler from such a plant to a plant from which no milk is disposed of in the marketing area.

(4) The term "handler" means any person, irrespective of whether such per-

[1] 1 F.R. 1378.
[2] 2 F.R. 354.
[3] 4 F.R. 1158 DI.

son is a producer or a cooperative association, wherever located or operating, who engages in such handling of milk, which is disposed of as milk or cream in the marketing area, as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce in milk and its products. This definition shall be deemed to include any cooperative association with respect to milk caused to be delivered from a producer to a handler for the account of such cooperative association and for which such cooperative association collects payment, and any cooperative association or other handler with respect to the milk of any producer which it causes to be delivered to a plant from which no milk is disposed of in the marketing area, for the account of such cooperative association or handler and for which such cooperative association or handler collects payment.

(5) The term "market administrator" means the person designated pursuant to Sec. 912.2 as the agency for the administration hereof.

(6) The term "delivery period" means the current marketing period beginning with the 1st day and ending with the 15th day, and beginning with the 16th day and ending with the last day, of each month.

(7) The term "act" means Public Act No. 10, 73rd Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

(8) The term "Secretary" means the Secretary of Agriculture of the United States.

(9) The term "cooperative association" means any cooperative association of producers which the Secretary determines (a) to have its entire activities under the control of its members and (b) to have and to be exercising full authority in the sale of milk of its members.

§ 912.2 *Market administrator*—(a) *Designation.* The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall:

(1) Administer the terms and provisions hereof;

(2) Report to the Secretary complaints of violation of the provisions hereof.

(c) *Duties.* The market administrator shall:

(1) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary.

(2) Pay, out of the funds provided by Sec. 912.9, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office.

(3) Keep such books and records as will clearly reflect the transactions provided for herein and surrender the same to his successor or to such other person as the Secretary may designate.

(4) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 10 days after the date upon which he is required to perform such acts, has not (a) made reports pursuant to Sec. 912.5 or (b) made payments pursuant to Sec. 912.8.

(5) Promptly verify the information contained in the reports submitted by handlers.

§ 912.3 *Classification of milk*—(a) *Milk to be classified.* Milk of a producer which a handler causes to be delivered to a plant from which no milk is disposed of in the marketing area, and all milk received by each handler, including milk produced by him, if any, shall be classified by the market administrator in the classes set forth in paragraph (b) of this section, subject to the provisions of paragraphs (c) and (d) of this section.

(b) *Classes of utilization.* The classes of utilization of milk shall be as follows:

(1) Class I milk shall be all milk disposed of in the form of milk and all milk not accounted for as Class II milk, Class III milk, or Class IV milk.

(2) Class II milk shall be all milk used to produce cream which is disposed of in the form of cream for consumption as cream.

(3) Class III milk shall be all milk specifically accounted for as used to produce a milk product other than those specified in Class II milk and Class IV milk.

(4) Class IV milk shall be all milk specifically accounted for as used to produce butter or cheese, except cottage cheese, and all milk accounted for as actual plant shrinkage but not to exceed 3 percent of the total receipts of milk from producers.

(c) *Interhandler and nonhandler sales.* Milk disposed of by a handler to another handler and milk disposed of by a handler to a person who is not a handler but who distributes milk or manufactures milk products shall be classified, subject to paragraph (d) of this section, as Class I milk: *Provided*, That if the selling handler on or before the 5th day after the end of each delivery period furnishes to the market administrator a statement which is signed by the buyer and seller that such milk was disposed of as Class II milk, Class III milk, or Class IV milk, such milk shall be classified accordingly, subject to verification by the market administrator.

(d) *Sales of a cooperative association to any other handler.* Milk caused to be delivered from a producer to any other handler by a cooperative association which is a handler shall be ratably apportioned among the receiving handler's total Class I, Class II, Class III, and Class IV milk.

§ 912.4 *Minimum prices*—(a) *Class prices.* (1) Each handler shall pay, at the time and in the manner set forth in Sec. 912.8, not less than the following prices for milk received at such handler's plant or caused to be delivered by such handler to a plant from which no milk is disposed of in the marketing area, during delivery periods in May, June, July, August, and September of each year:

Class I milk—$1.95 per hundredweight.

Class II milk—$1.50 per hundredweight.

Class III milk—The price per hundredweight for milk of 3.8 percent butterfat content computed pursuant to section 1 of article VI of the marketing agreement for evaporated milk issued by the Secretary on May 31, 1935, or pursuant to any amendments issued thereto. In the event the said marketing agreement for evaporated milk is terminated, the price for Class III milk shall be the price per hundredweight calculated by the market administrator as follows: multiply by 3.8 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and add 30 percent thereof.

Class IV milk—The price per hundredweight which shall be calculated by the market administrator as follows: multiply by 3.8 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and add 10 percent thereof.

(2) Each handler shall pay, at the time and in the manner set forth in Sec. 912.8, not less than the following prices for milk received at such handler's plant or caused to be delivered by such handler to a plant from which no milk is disposed of in the marketing area during delivery periods in October, November, December, January, February, March, and April of each year:

Class I milk—$2.35 per hundredweight.

Class II milk—$1.90 per hundredweight.

Class III milk—The price per hundredweight for milk of 3.8 percent butterfat content computed pursuant to section 1 of article VI of the marketing agreement for evaporated milk issued by the Secretary on May 31, 1935, or pursuant to any amendments issued thereto. In the event the said marketing agreement for evaporated milk is terminated, the price for Class III milk shall be the price per hundredweight

calculated by the market administrator as follows: multiply by 3.8 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and add 30 percent thereof.

Class IV milk—The price per hundredweight which shall be calculated by the market administrator as follows: multiply by 3.8 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and add 10 percent thereof.

§ 912.5 *Reports of handlers*—(a) *Periodic reports.* On or before the 5th day after the end of each delivery period each handler, with respect to milk or cream which was, during such delivery period (a) received from producers, (b) received from handlers, (c) produced by such handler, (d) received from any other source, or (e) caused to be delivered to a plant from which no milk is disposed of in the marketing area, shall report to the market administrator, in the detail and form prescribed by the market administrator, as follows:

(1) The receipts at each plant from producers who are not handlers;

(2) The receipts at each plant from any other handler, including any handler who is also a producer;

(3) The quantity, if any, produced by such handler;

(4) The receipts of milk at each plant from any other source; and

(5) The respective quantities of milk which were disposed of for the purpose of classification pursuant to Sec. 912.3.

(b) *Reports as to producers.* Each handler shall report to the market administrator as follows:

(1) Within 10 days after the market administrator's request, with respect to any producer for whom such information is not in the files of the market administrator and with respect to a period or periods of time designated by the market administrator, (a) the name and address, (b) the total pounds of milk received, (c) the average butterfat test of milk received, and (d) the number of days upon which milk was received; and

(2) As soon as possible after first receiving milk from any producer (a) the name and address of such producer, (b) the date upon which such milk was first received, and (c) the plant at which the milk of such producer was received.

(c) *Reports of payments to producers.* On or before the 20th day after the end of each delivery period each handler shall submit to the market administrator his producer pay roll for such delivery period which shall show for each producer (a) the net amount of such producer's payment with the prices, deductions, and charges involved, and (b) the total delivery of milk with the average butterfat test thereof.

(d) *Verification of reports.* Each handler shall make available to the market administrator or his agent (a) those records which are necessary for the verification of the information contained in the reports submitted in accordance with this section, and (b) those facilities which are necessary for the sampling, weighing, and testing of the milk of each producer.

§ 912.6 *Handlers who are also producers.* (a) With respect to each handler who is also a producer:

(1) The market administrator shall exclude from the computations made pursuant to Sec. 912.7 (a) the quantity of milk disposed of by such handler: *Provided,* That where any such handler has purchased or received milk from other producers the value of the milk purchased or received shall be computed under Sec. 912.7 (a) as follows: the quantity of such milk shall be ratably apportioned among such handler's total Class I, Class II, Class III, or Class IV milk (after excluding purchases or receipts, if any, from other handlers) and multiplied by the Class I, Class II, Class III, or Class IV prices, respectively.

(2) The market administrator, in computing the value of milk disposed of by such handler, shall consider as Class IV milk any milk or cream disposed of in bulk by such handler to another handler operating a bottling or processing plant. If such buying handler has disposed of such milk or cream for other than Class IV purposes, the market administrator shall add to the total value computed pursuant to Sec. 912.7 (a) the difference between (a) the value of such milk or cream at the Class IV price and (b) the value according to its actual usage.

§ 912.7 *Determination of uniform prices to producers*—(a) *Computation of the value of milk for each handler.* For each delivery period the market administrator shall compute, subject to the provisions of Sec. 912.6, the value of milk of producers disposed of by each handler by (a) multiplying the quantity of such milk in each class by the price applicable pursuant to Sec. 912.4 and (b) adding together the resulting values of each class.

(b) *Computation and announcement of the uniform price.* For each delivery period the market administrator shall compute and announce the uniform price per hundredweight of milk as follows:

(1) Combine into one total the respective values of milk computed pursuant to paragraph (a) of this section for each handler who made the reports to the market administrator prescribed by Sec. 912.5, and who made the payments to the market administrator prescribed by Sec. 912.8 (d);

(2) Subtract the total amount to be paid pursuant to Sec. 912.8 (a) (2);

(3) Add the amount of cash balance in the producer-settlement fund less the amount due handlers pursuant to Sec. 912.8 (g);

(4) Divide the result obtained in subparagraph (3) of this paragraph by the total hundredweight of milk of producers other than that represented by the amount subtracted in subparagraph (2) of this paragraph.

(5) Subtract not less than 4 cents nor more than 5 cents per hundredweight of milk for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors in reports and payments or delinquencies in payments by handlers. This result shall be known as the uniform price for such delivery period for milk of producers containing 3.8 percent butterfat; and

(6) On or before the 8th day after the end of each delivery period notify all handlers and make public announcement of these computations, of the uniform price per hundredweight of milk, of the Class III and Class IV prices, and of the butterfat differential computed pursuant to Sec. 912.8 (b).

§ 912.8 *Payments for milk*—(a) *Time and method of payment.* On or before the 15th day after the end of each delivery period, each handler shall make payment, subject to the butterfat differential set forth in paragraph (b) of this section, for milk received at such handler's plant or caused to be delivered by such handler to a plant from which no milk is disposed of in the marketing area during such delivery period, as follows:

(1) To producers, except as set forth in subparagraph (2) of this paragraph, not less than the uniform price per hundredweight, computed pursuant to Sec. 912.7 (b); and

(2) To any producer whose milk was not regularly received by a handler or who did not distribute milk in the marketing area during a period of 30 days prior to the effective date hereof, for all the milk received from such producer during a period beginning with the date of the first regular receipt of milk from such producer and including the first 2 full calendar months following the date of such first receipt of milk, at the Class IV price.

(b) *Butterfat differential.* If the milk of any producer received by a handler or caused to be delivered by a handler to a plant from which no milk is disposed of in the marketing area, during the delivery period, has an average butterfat content other than 3.8 percent, such handler shall add to the uniform price for such producer for each one-tenth of 1 percent of average butterfat content in milk above 3.8 percent not less than, or shall deduct from the uniform price for such producer for each one-tenth of

1 percent of average butterfat content in milk below 3.8 percent not more than, an amount which is one-tenth of the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received: *Provided,* That such amount shall be not less than 3 cents nor more than 4 cents.

(c) *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund, known as "the producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to paragraphs (d), (e), and (g) of this section and out of which he shall make all payments to handlers pursuant to paragraphs (f) and (g) of this section.

(d) *Payments to the producer-settlement fund.* On or before the 10th day after the end of each delivery period, each handler shall pay, subject to the provisions of paragraph (e) of this section, to the market administrator for payment to producers through the producer-settlement fund, the amount by which the total utilization value of the milk of producers received by such handler or caused to be delivered by such handler to a plant from which no milk is disposed of in the marketing area during the delivery period is greater than the sum obtained by multiplying the hundredweight of such milk by the appropriate prices required to be paid producers by handlers pursuant to subparagraphs (1) and (2) of paragraph (a) of this section, and adding together the resulting amounts.

(e) *Payments made through a cooperative association.* On or before the 10th day after the end of each delivery period, each handler, with respect to milk which was caused to be delivered to him from producers by a cooperative association, for the account of such association and for which such cooperative association collects payment, shall make payment to such cooperative association at not less than the class prices set forth in Sec. 912.4, and subject to the provisions of Sec. 912.3 (d) and to the butterfat differential provided in paragraph (b) of this section, for the utilization value of such milk. On or before the 11th day after the end of each delivery period, such cooperative association shall pay to the market administrator the amount by which the utilization value of such milk, and of the milk of each producer which it causes to be delivered to a plant from which no milk is disposed of in the marketing area, is greater than the sum obtained by multiplying the hundredweight of such milk by the appropriate prices required to be paid by handlers pursuant to subparagraphs (1) and (2) of paragraph (a) of this section, and adding together the resulting amounts.

(f) *Payments out of producer-settlement fund.* On or before the 15th day after the end of each delivery period, the market administrator shall pay to each handler, with respect to milk which was not caused to be delivered to such handler by a cooperative association, for the account of such cooperative association and for which such cooperative association collects payment, for payment to producers, the amount, if any, by which the total utilization value of such milk of producers received by such handler, or caused to be delivered by such handler to a plant from which no milk is disposed of in the marketing area during the delivery period, is less than the sum obtained by multiplying the hundredweight of such milk of producers by the appropriate prices required to be paid producers by handlers pursuant to subparagraphs (1) and (2) of paragraph (a) of this section, and adding together the resulting amounts. On or before the 15th day after the end of each delivery period the market administrator shall pay to each cooperative association, with respect to milk which it caused to be delivered from a producer to another handler or to a plant from which no milk is disposed of in the marketing area, for the account of such cooperative association and for which such cooperative association collects payment, for payment to producers, the amount, if any, by which the total utilization value of such milk of producers is less than the sum obtained by multiplying the hundredweight of such milk of producers by the appropriate prices required to be paid producers by handlers pursuant to subparagraphs (1) and (2) of paragraph (a) of this section, and adding together the resulting amounts. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. No handler who, on the 15th day after the end of each delivery period, has not received the balance of such reduced payment from the market administrator, shall be deemed to be in violation of paragraph (a) of this section if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

(g) *Adjustment of errors in payments.* Whenever verification by the market administrator of reports or payments of any handler discloses errors in payments to the producer-settlement fund made pursuant to paragraphs (d) and (e) of this section, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler pursuant to paragraph (f) of this section, the market administrator shall, within 5 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer discloses payment to such producer of less than is required by this section, the handler shall make up such payment to the producer not later than the time of making payment to producers next following such disclosure.

§ 912.9 *Expense of administration*—(a) *Payment by handlers.* As his pro-rata share of the expense of the administration hereof, each handler who received milk from producers, with respect to all milk received from producers, produced by such handler, or caused to be delivered by such handler to a plant from which no milk is disposed of in the marketing area, during the delivery period, shall pay to the market administrator, on or before the 10th day after the end of such delivery period, an amount not to exceed 4 cents per hundredweight, the exact amount to be determined by the market administrator, subject to review by the Secretary. As its pro-rata share of the expense of the administration hereof, a cooperative association which is a handler shall pay to the market administrator, on or before the 11th day after the end of the delivery period, with respect to the milk of any producer which it causes to be delivered to a plant from which no milk is disposed of in the marketing area, an amount per hundredweight equivalent to that required to be paid by other handlers pursuant to this paragraph.

(b) *Suits by the market administrator.* The market administrator may maintain a suit in his own name against any handler for the collection of such handler's pro-rata share of expenses set forth in this section.

§ 912.10 *Effective time, suspension, or termination of order, as amended*—(a) *Effective time.* The provisions hereof, or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to paragraph (b) of this section.

(b) *Suspension or termination of order, as amended.* The Secretary may suspend or terminate this order, as amended, or any provision hereof, whenever he finds that this order, as amended, or any provision hereof, obstructs, or does not tend to effectuate the declared policy of the act. This order, as amended, shall terminate, in any event, whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing power and duty of the market administrator.* If, upon the suspension or termination of any or all provisions hereof, there are any obligations arising hereunder the final accrual or ascertainment of which requires fur-

ther acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(1) The market administrator, or such other person as the Secretary may designate, shall (a) continue in such capacity until removed by the Secretary, (b) from time to time account for all receipts and disbursements and, when so directed by the Secretary, deliver all funds or property on hand together with the books and records of the market administrator, or such person, to such person as the Secretary may direct, and (c) if so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

(d) *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions hereof, the market administrator, or such person as the Secretary may designate, shall liquidate, if so directed by the Secretary, the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 912.11 *Liability*—(a) *Liability of handlers.* The liability of the handlers hereunder is several and not joint and no handler shall be liable for the default of any other handler.

Now, therefore, H. A. Wallace, Secretary of Agriculture, acting under the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, for the purposes and within the limitations therein contained and not otherwise, hereby executes and issues in duplicate this order, as amended, under his hand and the official seal of the Department of Agriculture, in the city of Washington, District of Columbia, on this 12th day of June 1939, and declares this order, as amended, to be effective on and after the 16th day of June 1939.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-2039; Filed, June 12, 1939; 4:33 p. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

BUREAU OF ANIMAL INDUSTRY

[Amendment 1 to BAI Order 364]

SUBCHAPTER G—REGULATIONS UNDER THE PACKERS AND STOCKYARDS ACT

PART 201—STOCKYARDS REGULATIONS

Rules and Regulations With Respect to Stockyard Owners, Market Agencies, Dealers, and Licensees

JUNE 10, 1939.

Under the authority conferred upon the Secretary of Agriculture by the provisions of the act approved June 16, 1938, making appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1939, and for other purposes (52 Stat. 710, 721; 7 U.S.C., supp. 204), the general rules and regulations of the Secretary of Agriculture with respect to stockyard owners, market agencies, dealers, and licensees, BAI Order 364,[1] issued February 17, 1938, effective March 1, 1938 (9 CFR, Parts 201, 202, 203, and 204), are hereby amended as hereinafter set forth.

Amends 9 CFR, Sec. 201.20 (Regulation 17 (b)) to read as follows:

§ 201.20 (Reg. 17b) *Bonds*—(a) *Market agencies and dealers to file.* Every market agency and dealer shall, on or before the date of commencement of operations, execute and thereafter maintain, or cause to be executed and thereafter maintained, a reasonable bond, satisfactory to the Secretary of Agriculture, to a suitable trustee to secure the performance of obligations incurred as such market agency or dealer and shall immediately file with the Secretary of Agriculture at Washington, D. C., a fully executed duplicate of such bond. On and after September 1, 1939, the bond of every market agency acting in the capacity of broker or clearing agency, and thereby being responsible for the financial obligations of other registrants, shall show the name of the person or persons for whom the market agency holds itself out to be responsible and whose obligations are covered by the bond.

(b) *Market agency and dealer defined.* For the purpose of this section "market agency" means any person engaged in the business of buying or selling in commerce livestock at a stockyard on a commission basis or of furnishing clearing services, and "dealer" means any person, not a market agency, engaged in the business of buying or selling in commerce livestock at a stockyard either on his own account or as the employee or agent of the vendor or purchaser.

(c) *Underwriter and amount.* Surety companies underwriting bonds shall be approved by the Treasury Department of the United States for bonds executed to the United States. The amount of such bond shall be not less than the nearest multiple of $1,000 above the average amount of sales and/or purchases of livestock by such market agency or dealer during two business days, based on the total number of the business days, and the total amount of such sales and/or purchases in the preceding twelve months, or in such part thereof in which such market agency or dealer did business, if any. For the purpose of computation, 308 shall be deemed the number of business days in a year, except that in those markets where livestock is offered for sale on not more than two days per week the actual number of days in the preceding twelve months on which livestock was offered for sale shall be deemed the number of business days. In such instances the amount of the bond shall be not less than the nearest multiple of $1,000 above the average amount of sales and/or purchases of livestock by such market agency or dealer during one business day. In any case, however, the amount of bond shall be not less than $2,000; and when the sales and/or purchases, calculated as hereinbefore specified, exceed $50,000 the amount of the bond need not exceed $50,000 plus ten percent of the excess. Whenever the Secretary of Agriculture at Washington, D. C., finds any bond required hereunder to be inadequate, such bond, upon notice, shall be adjusted to meet the requirements of this section.

(d) *Termination.* Every bond shall contain a provision requiring that at least ten days' prior notice in writing be given to the Secretary of Agriculture at Washington, D. C., by the party terminating such bond in order to effect its termination. (52 Stat. 721; 7 U.S.C., supp. 204) [Reg. 17b, BAI Order 364, Feb. 17, 1938, as amended June 10, 1939]

This amendment, which is designated as amendment 1 to BAI Order 364 (9 CFR, Sec. 201.20), shall become and be effective on the 15th day of June 1939.

Done at Washington, D. C., this 10th day of June, 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 39-2034; Filed, June 12, 1939; 1:52 p. m.]

[1] 3 F.R. 499 DI.

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3781]

IN THE MATTER OF COTTON BELT MATTRESS COMPANY

§ 3.66 (a) *Misbranding or mislabeling—Composition.* Using, in connection with offer, etc., in commerce, of mat-

tresses, term "felt", alone or in conjunction with any other term or terms to designate, describe, or refer to any mattress, or part thereof, which is not made of fibers of cotton or wool garnetted together into a mat or web, or term "staple cotton", or any other term or terms of similar import or meaning, to designate, describe or refer to any product which is not full length fiber cotton, or representing that such mattresses are made of or filled with cleaned cotton motes or washed cotton, unless and until such is the fact, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Cotton Belt Mattress Company, Docket 3781, June 3, 1939]

§ 3.66 (d) *Misbranding or mislabeling—Nature.* Representing, in connection with offer, etc., in commerce, of mattresses, that respondent's mattresses are felt plated, unless said mattresses have a layer of felt on their top and also on their underside, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Cotton Belt Mattress Company, Docket 3781, June 3, 1939]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3rd day of June, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

IN THE MATTER OF E. E. PHILLIPS, INDIVIDUALLY AND TRADING AS COTTON BELT MATTRESS COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, E. E. Phillips, individually and trading as Cotton Belt Mattress Company, or under any other name or names, his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of mattresses in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the term "felt" alone or in conjunction with any other term or terms to designate, describe, or refer to any mattress, or part thereof, which is not made of fibers of cotton or wool garnetted together into a mat or web;

2. Using the term "staple cotton" or any other term or terms of similar import or meaning to designate, describe, or refer to any product which is not full length fiber cotton;

3. Representing that such mattresses are made of or filled with cleaned cotton motes or washed cotton unless and until such is the fact;

4. Representing that respondent's mattresses are felt plated unless said mattresses have a layer of felt on their top and also on their underside.

It is further ordered, That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 39-2048; Filed, June 13, 1939; 11:53 a. m.]

TITLE 21—FOOD AND DRUGS

FOOD AND DRUG ADMINISTRATION

PROMULGATION OF REGULATIONS FOR THE INSPECTION OF CANNED SHRIMP

Under the authority of Section 10A of the Federal Food and Drugs Act (49 Stat. 871; 21 U.S.C. 14a), which remains in force and effect and is applicable to the provisions of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040 et seq.; 21 U.S.C. 301 et seq.), the following regulations for the inspection of canned shrimp are hereby promulgated. These regulations shall take effect on July 1, 1939.

[SEAL] H. A. WALLACE, *Secretary of Agriculture.*

JUNE 12, 1939.

REVISED REGULATIONS FOR INSPECTION OF CANNED SHRIMP EFFECTIVE JULY 1, 1939

§ 155.00 *Application for inspection service.* (a) Applications for inspection service on canned shrimp under the provisions of section 10A of the Federal Food and Drugs Act (which remains in force and effect and is applicable to the provisions of the Federal Food, Drug, and Cosmetic Act) shall be on forms supplied by the Food and Drug Administration. A separate application shall be made for each inspection period in each establishment in which the service is applied for. Each application for an initial inspection period shall be accompanied by bank draft or certified check drawn to the order of the Treasurer, United States for $360, as prescribed by section 155.12.

(b) An application by two or more packers for inspection service in one establishment to be jointly or severally operated by them shall be accompanied by an agreement signed by such packers binding each to be jointly and severally liable for the payment of all fees and deposits required for such establishment by section 155.12.

§ 155.01 *Granting or refusing inspection service; cancellation of application.* (a) The Secretary of Agriculture may grant the inspection service applied for when he determines that the establishment covered by such application complies with the requirements of section 155.05.

(b) The Secretary may refuse to grant the inspection service at any establishment for cause. In case of refusal he shall notify the applicant of the reason therefor and shall return to such applicant the payment which accompanied the application, less any expenses incurred by the Administration for preliminary inspection of the establishment, or for other purposes incident to such application.

(c) The applicant, by giving written notice to the Secretary, may withdraw his application for inspection service before an inspector is assigned to the establishment. In case of such withdrawal, the Secretary shall return to such applicant the payment which accompanied the application, less any expenses incurred by the Administration for preliminary inspection of the establishment, or for other purposes incident to such application.

§ 155.02 *Inspection periods.* (a) The initial inspection period in each establishment in which inspection service under these regulations is granted shall be nine months. Extension inspection periods, each of which shall begin at the close of the preceding inspection period, may be granted in such establishment if application therefor, accompanied by a deposit of $120 as prescribed by section 155.12, is made at least two weeks in advance of the close of such preceding inspection period: *Provided,* That upon request by the packer and with the approval of the Administration, such service during any inspection period may be transferred from one establishment to another to be operated by the same packer; but such transfer shall not serve to lengthen any inspection period or to take the place of an extension inspection period. In case of such transfer the packer shall furnish all necessary transportation of inspectors.

(b) Each initial inspection period shall begin on or after July 1, but not later than September 15, of each year. No extension inspection period shall extend beyond June 30 of any year.

(c) The date of the beginning of each initial inspection period shall be regarded as the date specified for the beginning of the service in the application therefor, or such other date as may be specified by amendment to such application and approved by the Administration; but if the Secretary is not prepared

to begin the service on the specified date, the date of the beginning of such period shall be regarded as the date on which the service is begun.

(d) Inspection service shall be continuous throughout the inspection periods, except that, where the canning of shrimp is suspended as a result of the enforcement of State conservation laws, the inspection service may be withdrawn for the period of suspension or any part thereof. An inspection period in which such a withdrawal occurs shall be lengthened to compensate for the time of withdrawal.

§ 155.03 *Assignment of inspectors.* (a) An initial assignment of at least one inspector shall be made to each establishment in which inspection service under these regulations is granted. Thereafter the Administration shall adjust the number of inspectors assigned to each establishment to the number required for continuous and efficient inspection.

(b) Any inspector of the Administration shall have free access at all times to all parts of the establishment and to all fishing and freight boats and other conveyances catching shrimp for, or transporting shrimp to, such establishment.

§ 155.04 *Uninspected shrimp excluded from inspected establishments.* (a) No establishment to which inspection service on canned shrimp has been granted shall at any time thereafter can shrimp which has not been inspected under these regulations, or handle or store in such establishment any canned shrimp which has not been so inspected; but this paragraph shall not apply to an establishment after termination of inspection service therein as authorized by section 155.13.

(b) All shrimp delivered to or held in an establishment shall be subject to inspection, but certificates of inspection shall be issued under these regulations only on canned shrimp.

§ 155.05 *General requirements for plant and equipment.* (a) All exterior openings of the cannery shall be adequately screened, and roofs and exterior walls shall be tight. When necessary, fly traps or other approved insect control devices shall be installed.

(b) Picking and packing rooms shall be separate, and fixtures and equipment thereof shall be so constructed and arranged as to permit thorough cleaning. Such rooms shall be adequately lighted and ventilated, and the floors thereof shall be tight and arranged for thorough cleaning and proper drainage. Blanching tanks shall not be located in picking room. Open drains from picking room shall not enter packing or blanching room. If picking and packing rooms are in separate buildings, such buildings shall not be more than 100 yards apart unless adequate provisions are made to enable efficient inspection.

(c) All surfaces of tanks, belts, tables, flumes, utensils, and other equipment with which either picked or unpicked shrimp come in contact after delivery to the establishment, shall be of metal other than lead, or of other nonporous and easily cleanable material. Metal seams shall be smoothly soldered.

(d) Adequate supplies of steam and of clean, unpolluted running water shall be provided for washing, cleaning, and otherwise maintaining the establishment in a sanitary condition.

(e) Adequate toilet facilities of sanitary type shall be provided.

(f) An adequate number of sanitary wash basins, with liquid or powdered soap, shall be provided in both the picking and packing rooms. Paper towels shall be provided in the packing room.

(g) Signs requiring employees handling shrimp to wash their hands after each absence from post of duty shall be conspicuously posted in the picking and packing rooms and elsewhere about the cannery as conditions require.

(h) Suitable space and facilities shall be provided for the inspector to prepare records and examine samples, and for the safekeeping of records and equipment.

(i) One or more suitable washing devices and one or more suitable inspection belts shall be installed for the washing and subsequent inspection of the shrimp before delivery to the picking tables.

(j) Suitable containers, flumes, chutes, or conveyors shall be provided for removal of offal from picking room.

(k) Picking tables shall be equipped with flumes supplied with clean, unpolluted water for removing the picked shrimp.

(l) Equipment shall be provided for code marking cans or other immediate containers.

(m) An automatic container counting device shall be installed in each cannery line.

(n) Each processing retort shall be fitted with at least the following equipment:

(1) An automatic control for regulating temperatures.

(2) An indicating mercury thermometer of a range from 170° F. to 270° F. with scale divisions not greater than 2°. For steam cook such thermometers shall be installed either within a fitting attached to the shell of the retort or within the door or shell of the retort. For water cook such thermometers shall be installed in the door or shell of the retort below the water level. If the thermometer is installed within a fitting such fitting shall communicate with the chamber of the retort through an opening at least 1 inch in diameter. Such fitting shall be equipped with a bleeder at least ⅛ inch in diameter. If the thermometer is installed within the door or shell of the retort the bulb shall project at least two-thirds of its length into the principal chamber thereof.

(3) A recording thermometer of a range from 170° F. to 270° F. with scale divisions not greater than 2°. The bulb of such thermometer shall be installed as prescribed for the indicating mercury thermometer. The case which houses the charts and recording mechanism shall be provided with an approved lock, all keys to which shall be in the sole custody of the inspector.

(4) A pressure gauge of a range from 0 to 30 pounds with scale divisions not greater than 1 pound. Such gauge shall be connected to the chamber of the retort by a short gooseneck tube. The gauge shall be not more than 4 inches higher than the gooseneck.

(5) For steam cook, a blow-off vent of at least ¾ inch inside diameter in the top of the retort.

(6) For steam cook, a ⅛ inch bleeder in top of retort.

(7) For steam cook, a baffle plate in the base of retort, unless retort baskets with perforated base plates are provided.

§ 155.06 *General operating conditions.* (a) The decks and holds of boats catching shrimp for, or transporting shrimp to, an inspected establishment, and the bodies of other conveyances so transporting shrimp shall be kept in a sanitary condition. When necessary the shrimp shall be iced down immediately after they are caught, and shall be kept adequately refrigerated until delivery to cannery.

(b) Canneries, cannery freight boats, and other cannery conveyances shall accept only fresh, clean, sound shrimp.

(c) After delivery of each load of shrimp to the cannery, decks and holds of each boat and the body of each other conveyance making such delivery shall be washed down with clean, unpolluted water and all debris shall be cleaned therefrom before such boat or other conveyance leaves the cannery premises.

(d) Before picking the shrimp shall be washed with clean, unpolluted water and then passed over the inspection belt and culled to remove all shrimp that are filthy, decomposed, putrid, or otherwise unfit for food, and all extraneous material.

(e) Offal from picking tables shall not be piled on the floor, but shall be placed in suitable containers for frequent removal, or shall be removed by flumes, conveyors, or chutes.

(f) Shrimp shall not be picked into cups but shall be picked into flumes which immediately remove the picked meats from the picking tables.

(g) Picked shrimp being transported from one building to another before enclosure in the can or other immediate container shall be properly covered and protected against contamination.

(h) From the time of delivery to the cannery up to the time of final processing, shrimp shall be handled expeditiously and under such conditions as to prevent contamination or spoilage.

(i) The packer shall immediately destroy for food purposes all shrimp in his

possession condemned by the inspector as filthy, decomposed, putrid, or otherwise unfit for food. Shrimp condemned on boat or unloading platform shall not be taken into the ice box or picking room.

(j) All portions of the establishment shall be adequately lighted to enable the inspector to perform his duties properly.

(k) All floors and other parts of the establishment, including unloading platforms, and all fixtures, equipment, and utensils shall be cleaned as often as may be necessary to maintain them in sanitary condition.

(l) The packer shall require all employees handling shrimp to wash their hands after each absence from post of duty.

(m) The packer shall require all employees to observe proper habits of cleanliness, and shall not knowingly employ in or about the establishment any person afflicted with infectious or contagious disease.

(n) Offal, debris, or refuse from any source whatever, shall not be allowed to accumulate in or about the establishment.

§ 155.07 *Code marking.* (a) Code marks shall be affixed to all cans and other immediate containers before they are placed in the processing retorts. Such marks shall show at least (1) the date of packing, (2) the establishment where packed, and (3) the size of the shrimp when such shrimp were graded for size and are not in containers through which they are clearly visible.

(b) Keys to all code marks shall be given to the inspector.

(c) Each lot shall be stored separately pending final inspection. For the purposes of these regulations all cans or other immediate containers bearing the same code mark shall be regarded as comprising a lot.

§ 155.08 *Processing.* (a) The closure of the can or other immediate container and the time and temperature of processing the canned shrimp shall be adequate to prevent bacterial spoilage.

(b) The following processes shall be employed for the containers indicated:

Dry Pack

Kind of container	Liner	Size	Time at 240° F.	Time at 250° F.
Tin	One-piece	211 x 400	85 minutes	66 minutes.
Tin	One-piece	307 x 208	85 minutes	66 minutes.
Tin	One-piece	307 x 400	90 minutes	70 minutes.
Tin	Two-piece	211 x 400	80 minutes	62 minutes.
Tin	Two-piece	307 x 208	80 minutes	62 minutes.
Tin	Two-piece	307 x 400	85 minutes	66 minutes.
Tin	Three-piece or no liner	211 x 400	70 minutes	53 minutes.
Tin	Three-piece or no liner	307 x 208	70 minutes	53 minutes.
Tin	Three-piece or no liner	307 x 400	75 minutes	57 minutes.
Tin (high vacuum)	Three-piece or no liner	307 x 208	55 minutes	

Wet Pack

Kind of container	Size	Time at 240° F.	Time at 250° F.
Tin	102 x 300		10 minutes.
Tin	211 x 400	20 minutes	10 minutes.
Tin	307 x 208	20 minutes	10 minutes.
Tin	307 x 400	23 minutes	12 minutes.
Tin	502 x 510		13 minutes.
Tin	603 x 700		15 minutes.
Glass	2 to 9 fl. oz., inclusive	22 minutes	14 minutes.

(c) For steam cook, blow-off vent shall be open during the coming-up period until the mercury thermometer registers at least 215° F. Bleeders shall emit steam during the entire processing period.

(d) The inspector shall identify each record on the thermometer chart with the code mark of the lot to which such record relates and the date of such record. The Administration shall keep such charts for at least five years, and upon request shall make them available to the packer.

(e) The packer shall keep for at least one year all shipping records covering shipments from each lot, and upon request shall furnish such records to any inspector of the Administration.

§ 155.09 *Examination after canning.* (a) Adequate samples shall be drawn by the inspector from each lot of canned shrimp and shall be examined to determine whether or not such canned shrimp conforms to all requirements of the Federal Food, Drug, and Cosmetic Act, amendments thereto, and regulations thereunder.

(b) The packer shall destroy for food purposes, under the immediate supervision of the inspector, all canned shrimp condemned by the inspector as not complying with section 155.08 (a), or as filthy, decomposed, putrid, or otherwise unfit for food.

§ 155.10 *Labeling.* (a) Labels on canned shrimp covered by a certificate issued as authorized by section 155.11 (a) shall bear the mark "Production Supervised by U. S. Food and Drug Administration." Such mark shall be plainly and conspicuously displayed in type of uniform size and style on a strongly contrasting uniform background; and shall appear on the principal panel or panels of the label so as to be easily observable in connection with the name of the article.

(b) Two proofs, or one proof and one photostat thereof, or eight specimens of all labeling intended for use on inspected canned shrimp or on or within the cases therefor, shall be submitted to the Administration for approval. If proofs or photostat and proof are submitted, eight specimens of the labeling shall be sent to the Administration after printing. The Administration is hereby authorized to approve labeling for use on or with canned shrimp inspected under these regulations; approval shall be subject to the condition that such labeling shall be so used as to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, amendments thereto, and regulations thereunder. The Administration is also authorized hereby to revoke any such approval for cause. The Administration shall not approve labeling for canned shrimp intended for export under the provisions of section 155.11 (e).

(c) No commercial brand or brand name appearing on labeling approved as authorized under subsection (b), and no labeling simulating any such approved labeling, shall be used after such approval on canned shrimp other than that which has been handled, prepared and packed in compliance with all provisions of these regulations; but this subsection shall not apply to any packer's labeling after termination of inspection as authorized by section 155.13, or to any distributor's labeling after three-months written notice by the owner thereof to the Administration that the use of such labeling on inspected canned shrimp has been discontinued and will not be resumed.

§ 155.11 *Certificates of inspection; warehousing and export permits.* (a) After finding that the canned shrimp comprising any parcel (1) has been handled, prepared and packed in compliance with all provisions of these regulations, (2) bears labeling approved as authorized under section 155.10 (b), and (3) complies with all the provisions of the Federal Food, Drug, and Cosmetic Act, amendments thereto, and regulations thereunder, the inspector shall issue a certificate showing that such canned shrimp so complies. The certificate shall specify the code marks to which it applies, the quantity of the parcel so marked, the place where such parcel is stored, the size of the shrimp, the size and kind of containers, the type of pack, the commercial brand name on the labels, the quality grade of the shrimp if it is fancy, and the condition of the shrimp if it is broken. Such certificate shall become void if such labeling is removed, altered, obliterated, or replaced; but such canned shrimp may be relabeled under the supervision

of an inspector and recertified if the inspector finds that, after being relabeled, it complies with the requirements laid down by this subsection for the issuance of a certificate.

(b) Unless covered by certificate, canned shrimp shall be moved from an inspected establishment only for storage authorized under subsection (c), or export authorized under subsection (e), or for destruction as provided by section 155.09 (b).

(c) Applications to move unlabeled canned shrimp from storage in a warehouse elsewhere than in the establishment where such shrimp was packed shall be on forms supplied by the Administration. The application shall give the name and location of the warehouse in which such canned shrimp is to be stored, and shall be accompanied by an agreement signed by the operator of such warehouse that inspectors shall have free access at all times to all canned shrimp so stored, and that conditions which will preserve the identity of each parcel of such canned shrimp shall be continuously maintained pending issuance of a certificate thereon or removal as authorized by subsection (d). If such application is approved and it appears to the inspector that the canned shrimp comprising any parcel (1) has been packed in compliance with these regulations, (2) is not slack filled, and (3) conforms, except for the absence of labeling, to all requirements of the Federal Food, Drug, and Cosmetic Act, amendments thereto, and regulations thereunder, the inspector shall issue to the applicant, on his request, a warehousing permit covering such canned shrimp. Such permit shall specify the code marks to which it applies, the quantity of the parcel so marked, the places from and to which such parcel is to be moved, the size of the shrimp, the size and kind of containers, the type of pack, and the quality grade of the shrimp if it is fancy, and the condition of the shrimp if it is broken. When any provision of the agreement is violated the Administration may revoke any permit issued pursuant to such agreement, and may also revoke its approval of the application for warehousing which accompanied such agreement.

(d) Unless covered by certificate, canned shrimp stored under the authority of subsection (c) shall be moved from the warehouse where stored only for restorage under such authority, or for return upon written permission of the inspector to the establishment where packed, or for export authorized under subsection (e), or for destruction as provided by section 155.09 (b).

(e) Section 801 (d) of the Federal Food, Drug, and Cosmetic Act provides that a food intended for export shall not be deemed to be adulterated or misbranded under the Act if it (1) accords to the specifications of the foreign purchaser, (2) is not in conflict with the laws of the country to which it is intended for export, and (3) is labeled on the outside of the shipping package to show that it is intended for export. An application to export canned shrimp under the provisions of section 801 (d) of the Act shall be accompanied by the original or a verified copy of the specifications of the foreign purchaser; if so required by the Administration, evidence showing that such canned shrimp is not in conflict with the laws of the country to which it is intended for export; and, if shipment of labeled canned shrimp is specified or directed, eight specimens of the labeling therefor. If canned shrimp prepared or packed according to such specifications is not in conflict with the laws of such country, the Administration shall direct the inspector to issue to the applicant an export permit covering such canned shrimp comprising any parcel ordered by such purchaser under such specifications, when the inspector finds that such canned shrimp was packed in compliance with the requirements of these regulations regarding sanitary conditions and processing, is not filthy, decomposed, putrid, or otherwise unfit for food, accords to such specifications, and is packed in cases plainly and conspicuously marked "For Export." Such permit shall specify the code marks to which it applies and the quantity of the parcel so marked, and shall show that such canned shrimp was packed under sanitary conditions, is wholesome, and accords to such specifications. The applicant shall furnish to the inspector documentary evidence showing the exportation of all such canned shrimp. Canned shrimp intended for export under this subsection shall not be stored in any warehouse in the United States elsewhere than in the establishment where such canned shrimp was prepared or packed, except on written permission of the inspector, or of the chief of the Food and Drug Administration Station within whose territory such warehouse is located.

§ 155.12 *Inspection fees.* (a) Except as otherwise provided by these regulations, the fee prescribed for inspection service shall be three (3) cents for each case of canned shrimp packed under such service. For the purpose of this section a case of canned shrimp shall be 48 No. 1 cans (211 x 400) or the equivalent thereof. Each application for an initial inspection period shall be accompanied by an advance deposit of at least $180 to cover such fees, and thereafter similar advance deposits shall be made whenever necessary to prevent arrears in the payment of fees, unless the Administration on an estimate of output authorizes payment in other amounts. Any excess advance deposits so made for the fiscal year shall be returned to the packer by the Administration after the inspection service is closed in the establishment.

(b) In addition to the fee prescribed by subsection (a), an advance deposit of $120 multiplied by the number of months of the inspection period shall be made for each inspection period in each establishment. The sum of not less than $180 shall accompany each application for an initial inspection period, and subsequent deposits of $150 shall be made at monthly intervals from the date of the beginning of such period as defined in section 155.02 (c) until the total amount of the deposit for the initial inspection period shall have been made. Each application for an extension inspection period shall be accompanied by a deposit of $120 and at subsequent monthly intervals thereafter additional deposits of $120 shall be made; but if the final deposit is to cover a time of less than 30 days, then such deposit shall be at the rate of $4 for each day of such time. Advance deposits made under this subsection shall be charged with the cost of the inspection service which has not been provided for by fees under subsection (a) and any appropriations made by Congress for such purpose. The deposits by each packer shall be so charged in the same ratio to the total deposits as the number of months of inspection service rendered in such packer's establishment bears to the total number of months of inspection service rendered in all establishments. The balance remaining after such charges have been made shall be returned by the Administration to the packers at the end of the fiscal year. When inspection service is withdrawn from an establishment as authorized by section 155.13 (a), the Administration shall not return to the packer any of the advance deposits made for such establishments; and such deposits shall be charged with the cost incurred and the balance transferred into the Treasury as a miscellaneous receipt. Such deposits shall not be included in the total deposits when computing charges against such total deposits.

(c) A separate fee shall be paid to cover all expenses, incurred in accordance with the regulations of the Department, for salary, travel, subsistence, and other purposes incident to inspection for the purpose of issuing a certificate or warehousing or export permit on canned shrimp stored or held at any place at which a sea food inspector is not assigned.

(d) When the cannery and the cannery warehouse of an establishment are located at different points of such distance apart that transportation between them is required for the inspector to perform his duties in the establishment, the packer shall furnish such transportation or shall pay an extra fee to cover all expenses therefor.

(e) All payments required by these regulations shall be by bank draft or certified check, collectible at par, drawn to the order of the Treasurer, United States, and payable at Washington, D. C. All such drafts and checks, except those for the payment required by section 155.00, shall be delivered to the inspector and promptly scheduled to the Food and Drug Administration, Department of Agriculture, Washington, D. C., where-

upon after making appropriate records thereof they will be endorsed and transmitted to the Chief Disbursing Officer, Division of Disbursement, Treasury Department for deposit to the receipt account "128013 Deposits, Sea Food Inspection Fees, Food and Drug Administration."

(f) Refunds to the packers making advance deposits will be by check drawn on the Treasury of the United States pursuant to refund vouchers duly certified and approved by the designated administrative officers.

§ 155.13 *Suspension, withdrawal, and termination of inspection service.* (a) The Administration may suspend and the Secretary may withdraw inspection service in any establishment (1) upon failure of the packer to comply with any provision of these regulations, or (2) upon the dissemination by the packer or any person in privity with him of any representation which is false or misleading in any particular regarding the application to any sea food of the inspection service provided by these regulations.

(b) When inspection service is suspended in an establishment, as authorized by subsection (a), the Administration shall not lengthen the inspection period in such establishment to compensate for any of the time of suspension.

(c) After inspection service for a fiscal year is closed in an establishment, but before the resumption of packing therein during the next fiscal year, the packer may terminate inspection service under these regulations by giving written notice of such termination to the Secretary.

[F. R. Doc. 39–2044; Filed, June 13, 1939; 9:46 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Food and Drug Administration.

IN THE MATTER OF PUBLIC HEARINGS FOR PURPOSE OF RECEIVING EVIDENCE UPON BASIS OF WHICH REGULATIONS MAY BE PROMULGATED FIXING AND ESTABLISHING A DEFINITION AND STANDARD OF IDENTITY FOR EACH OF THE FOLLOWING FOODS: (A) CREAM, (B) WHIPPING CREAM, (C) EVAPORATED MILK, (D) SWEETENED CONDENSED MILK, (E) DRIED SKIM MILK

NOTICE OF CERTIFICATION AND FILING OF TRANSCRIPTS OF EVIDENCE AND OF TIME ALLOWED FOR FILING PROPOSED FINDINGS OF FACT, CONCLUSIONS, ARGUMENTS, AND BRIEFS

Notice is hereby given to all interested parties whose appearances were entered as matters of record that on Wednesday, June 14, 1939, there will be certified to and filed with the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Room 0310, South Building, Independence Avenue, between 12th and 14th Streets SW., Washington, D. C., the transcript of evidence of each of the afore-mentioned hearings, held May 1, 1939, to May 12, 1939, both inclusive, pursuant to notice of the Secretary of Agriculture which was published in the FEDERAL REGISTER issued March 28, 1939, at pages 1355–1356.

Further notice is hereby given that written arguments, proposed findings of fact, together with suggestions and conclusions, based solely on the evidence adduced at each of the said hearings, may be filed with said Hearing Clerk not later than July 17, 1939.

This the 12th day of June, 1939.

[SEAL] FRANK S. HASSELL,
Presiding Officer.

[F. R. Doc. 39–2035; Filed, June 12, 1939; 1:53 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 9th day of June, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

[Docket No. 3669]

IN THE MATTER OF GENERAL BAKING COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuand to authority vested in the Federal Trade Commission, under Acts of Congress (38 Stat. 717; 15 U.S.C.A., Section 41), and (49 Stat. 1526, U.S.C.A., Section 13, as amended)

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, June 19, 1939, at nine o'clock in the forenoon of that day (eastern standard time) Room 2301, United States Court House, Foley Square, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39–2036; Filed, June 12, 1939; 3:08 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 9th day of June, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

[Docket No. 3684]

IN THE MATTER OF UNIVERSAL STUDIOS, INC., A CORPORATION; HARRY I. SMITH, SANDERS R. SMITH, AND LORRAINE H. SMITH, CO-PARTNERS TRADING AS UNIVERSAL STUDIOS

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, July 6, 1939, at nine o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39–2037; Filed, June 12, 1939; 3:08 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 351]

RESCISSION OF ALLOCATION OF FUNDS FOR LOANS

JUNE 10, 1939.

I hereby amend Administrative Order Number 328, dated March 22, 1939, by rescinding the allocation of $250,000 therein made for Pennsylvania R9018A1 Bedford.

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 39–2040; Filed, June 13, 1939; 9:24 a. m.]

[Administrative Order No. 352]

ALLOCATION OF FUNDS FOR LOAN

JUNE 9, 1939.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation	*Amount*
South Carolina 8014W1 Aiken	$5,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 39-2041; Filed, June 13, 1939; 9:24 a. m.]

[Administrative Order No. 353]

ALLOCATION OF FUNDS FOR LOANS

JUNE 10, 1939.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation	*Amount*
Pennsylvania R9024A1 Bedford	$250,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 39-2042; Filed, June 13, 1939; 9:24 a. m.]

[Administrative Order No. 354]

ALLOCATION OF FUNDS FOR LOANS

JUNE 9, 1939.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation	*Amount*
Arkansas R9023W1 Mississippi	$5,000
Louisiana R9013W1 East Baton Rouge	5,000
North Carolina R9033W1Martin	5,000
North Carolina R9038W1 Carteret	2,000
North Carolina R9040W1 Brunswick	5,000
North Dakota R9016W1 Ramsey	3,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 39-2043; Filed, June 13, 1939; 9:24 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 9th day of June 1939.

[File No. 1-2408]

IN THE MATTER OF KINGDOM OF HUNGARY STATE LOAN OF 1924, 7½% SINKING FUND GOLD BONDS, DUE FEBRUARY 1, 1944

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the State Loan of 1924, 7½% Sinking Fund Gold Bonds, due February 1, 1944, of Kingdom of Hungary; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Thursday, July 6, 1939, at the office of the Securities and Exchange Commission, 120 Broadway, New York City, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That, Adrian C. Humphreys, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-2047; Filed, June 13, 1939; 11:32 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 10th day of June, A. D. 1939.

[File No. 56-44]

IN THE MATTER OF INTERNATIONAL UTILITIES CORPORATION, GENERAL WATER GAS & ELECTRIC COMPANY, AND SECURITIES CORPORATION GENERAL

NOTICE OF AND ORDER FOR HEARING

A joint application pursuant to section 12 (d) and Rule U-12D-1 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on June 27, 1939, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 22, 1939.

The matter concerned herewith is in regard to a joint application by International Utilities Corporation, a registered holding company, General Water Gas & Electric Company, and Securities Corporation General, subsidiaries of a registered holding company, for the approval of the sale of the following amounts of First Preferred and Common Stock of Community Power and Light Company to Russell B. Stearns, Boston, Massachusetts, and Morris F. La Croix, Boston, Massachusetts, for a total price of $68,000, allocated at the rate of $30.60 per share for the First Preferred and $10.00 per share for the Common:

	First preferred stock	Common stock
	Shares	*Shares*
International Utilities Corporation	1,293	726
General Water Gas & Electric Company	100	10
Securities Corporation General	400	579
Total	1,793	1,315

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-2045; Filed, June 13, 1939; 11:32 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of June, A. D. 1939.

[File No. 31-408]

IN THE MATTER OF CITIES SERVICE COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 (a) (3) and (5) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on June 28, 1939, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 23, 1939.

The matter concerned herewith is in regard to the aforesaid application for the exemption of Cities Service Company and all of its subsidiary companies from all the provisions of the Public Utility Holding Company Act of 1935.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-2046; Filed, June 13, 1939; 11:32 a. m.]